

EXHIBIT “1”

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22CMCV00262

Assigned for all purposes to: Compton Courthouse, Judicial Officer: Michael Shuliz
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 FARMERS INSURANCE EXCHANGE

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF LOS ANGELES

FARMERS INSURANCE EXCHANGE,

Plaintiff,

v.

WESCO INSURANCE COMPANY and
 DOES 1 through 10,

Defendants.

CASE NO.: 22CMCV00262

COMPLAINT FOR EQUITABLE
 CONTRIBUTION

Plaintiff Farmers Insurance Exchange ("Farmers") brings this action against Defendant,
 WESCO INSURANCE COMPANY ("Wesco") as follows:

I. INTRODUCTION

1. By this Complaint, Farmers seeks equitable contribution from Wesco which failed and refused to indemnify Farmers' and Wesco's (jointly the "Parties") mutual insured, Lake Terrace Condominium Association ("Lake Terrace") against the action entitled *Sherelle Derirra McCann, et al. v. Lake Terrace Condominium Association, et. al.*, in the Superior Court of Los Angeles (Central District), Case No. 18STCV01884 (the "Underlying Action." attached as Exhibit A). Wesco owes equitable contribution for amounts Farmers paid to indemnify Lake Terrace to the extent Farmers paid more than its fair share. Farmers alleges the following against Wesco:

II. THE PARTIES

2. At all times referenced herein, Farmers was and is an inter-insurance or reciprocal

1 exchange formed under the laws of California licensed to do business and doing business in the State
2 of California.

3 3. Farmers is informed, believes, and based thereon alleges that Wesco is an insurance
4 company incorporated in Delaware with a principal place of business at 59 Maiden Ln., 43rd floor,
5 New York, New York.

6 III. VENUE

7 4. Venue is proper because the actions and occurrences herein complained of were
8 performed and took place in Los Angeles County, California, and the amounts at issue in this action
9 herein are in excess of the jurisdictional minimum of the Superior Court.

10 IV. NATURE OF ACTION

11 5. Subject to a reservation of rights, Farmers accepted the tender of defense and
12 indemnity on behalf of Lake Terrace Condominium Association ("Lake Park") in the Underlying
13 Action. Farmers tendered the defense to Wesco, which initially improperly rejected the tender of the
14 Underlying Action incorrectly asserting there was no coverage under the policy of insurance issued
15 by Wesco to Lake Terrace. Subsequently, Wesco agreed to defend but failed and refused to share in
16 the settlement of claims against Lake Terrace or to indemnify Lake Terrace and to pay its fair share
17 for Lake Terrace's indemnity.

18 6. Farmers therefore seeks reimbursement from Wesco for amounts paid by Farmers for
19 the defense and indemnity of Lake Terrace exceeding Farmers' fair share.

20 V. THE UNDERLYING ACTION

21 7. Sherelle McCann filed the Underlying Action alleging that on November 1, 2016, she
22 was a resident of the Lake Terrace Condominium Association. She was walking on the common area
23 walkway of the property and she slipped and fell. The walkway is alleged to have been "made of
24 cement, concrete and/or smooth, slick and/or slippery stones or pebbles." The walkway is also
25 alleged to be "dangerous, defective, unsafe, substandard, slippery, slick, unkempt, faulty and/or
26 flawed." She alleges she suffered severe permanent injuries.

27 8. At her deposition, Ms. McCann testified that on the morning she fell, leaves were
28 present on the walkway. She also recalls seeing water on the walkways of the HOA prior to this

1 incident, including the walkway location of the incident. There was water on the walkways on the
 2 morning of the accident from the sprinklers. As she was walking on the walkway she slipped at a
 3 point where the walkway converges with another walkway at a "T" intersection.

4 **A. Rancho Contracts with Lake Terrace Homeowner Association**

5 9. Rancho California Landscaping Inc. ("Rancho") contracted with the Lake Terrace
 6 Homeowner Association to provide landscaping services at the association property beginning May 1,
 7 2013, under a Landscape Maintenance Contract. In addition to the maintenance work Rancho
 8 performed regularly at the HOA, it also performed specific tasks subject to additional proposals as
 9 further work was necessary. The proposals include work such as tree removal, tree trimming,
 10 irrigation upgrades, etc.

11 The Landscape Maintenance Contract requires:

12 Contractor shall, at his expense, obtain and keep in force during the
 13 term of the contract, a policy of Comprehensive General Liability
 14 Insurance covering bodily injury and property damage; insuring
 15 Contractor and Owner against any liability arising out of the
 maintenance of the premises and all areas appurtenant thereto. Such
 insurance shall be in a Combined Single Limit policy in an amount of
 \$2,000,000.00 with \$3,000,000.00 excess umbrella liability.

16 10. The contract requires additional insured coverage protecting the Association for bodily
 17 injury arising out of Rancho's maintenance of the premises and appurtenant areas. The contract
 18 requires Rancho to maintain the lawns, ground covers, and trees. It also provides the planting beds,
 19 lawns, and walkways will be cleaned of papers and bottles. At the end of each workday Rancho
 20 agreed to pick up clippings, trimmings, and debris leaving the property clean. Rancho also had
 21 responsibility for the irrigation systems. This included fixing broken or clogged sprinkler heads and
 22 to monitor the system for leaking valves or other conditions that hamper operation of the system. The
 23 contract provides watering will be done at night or early morning. Rancho was to regularly inspect
 24 sprinkler heads and to adjust them to provide the "best possible coverage."

25 **B. The Additional Insured Endorsements**

26 11. Wesco insured Rancho under policy number 0094313792. The claim file contains two
 27 additional insured endorsements. The first provides additional insured coverage where required by
 28 written contract for ongoing operations. The second provides additional insured coverage for

1 completed operations.

2 12. The Ongoing Operations Endorsement provides coverage for ongoing operations and
3 it provides blanket coverage for "Any person or organization for whom you are performing
4 operations or when you and such person or organization have agreed in a written contract or written
5 agreement, provided said contract or agreement is executed prior to the date of loss, that such person
6 or organization be added as an additional insured on your policy." The Ongoing Operations
7 Endorsement further states that:

8 A. Section II - Who Is An Insured is amended to include as an
9 additional insured the person(s) or organization(s) shown in the
10 Schedule, but only with respect to liability for "bodily injury",
"property damage" or "personal and advertising injury" caused, in
whole or in part, by:

11 1. Your acts or omissions; or

12 2. The acts or omissions of those acting on your behalf;

13 in the performance of your ongoing operations for the additional
14 insured(s) at the location(s) designated above. ...

15 13. The Completed Operations Endorsement also provides coverage to additional insureds
16 that Rancho agreed to add as an additional insured pursuant to contract. It provides coverage for:

17 A. Section II - Who Is An Insured is amended to include as an
18 additional insured the person(s) or organization(s) shown in the
19 Schedule, but only with respect to liability for "bodily injury" or
20 "property damage" caused, in whole or in part, by "your work" at
the location designated and described in the Schedule of this
endorsement performed for that additional insured and included in
the "products-completed operations hazard". ...

21 14. The Association is an additional insured under Rancho's policy with respect to
22 liability "arising out of the maintenance of the premises and all areas appurtenant thereto."

23 15. Based on the terms, conditions, exclusions and provisions of Farmers' and Wesco's
24 Policies, Wesco had an obligation to fully indemnify Lake Terrace as an additional insured. It
25 refused to do so. As a result, Farmers settled all claims against Lake Terrace and thereby paid more
26 than its fair share to indemnify Lake Terrace in the Underlying Action. Wesco has refused, and
27 continues to refuse to contribute its fair share to settle the claims against Lake Terrace, causing
28 Farmers to be compelled to pay more than its fair share.

EXHIBIT A

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FILED
 Superior Court of California
 County of Los Angeles

OCT 23 2018

Sherri R. Carver, Executive Officer/Clerk
 By Sherrya Bolden Deputy

File No.: 24288A&B
 Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

SHERELLE DERIRRA McCANN;
ISAAC LAMAR McCANN III,

) Case No. **18STCV01884**
)

Plaintiffs,

) **COMPLAINT FOR DAMAGES FOR:**
)

vs.

-) 1.) **GENERAL NEGLIGENCE**
) 2.) **PREMISES LIABILITY**
) 3.) **GENERAL NEGLIGENCE - LOSS**
) **OF CONSORTIUM**
)

LAKE TERRACE CONDOMINIUM
ASSOCIATION; HOAG PROPERTY
MANAGEMENT, INC.; AND DOES 1
TO 100 INCLUSIVE, AND EACH OF
THEM,

Defendants.

COME NOW Plaintiffs, SHERELLE DERIRRA McCANN; ISAAC LAMAR McCANN III, and allege as follows:

1. At all times herein mentioned Plaintiffs, SHERELLE DERIRRA McCANN, is, and at all relevant times mentioned herein was, an individual residing in the County of Los Angeles, State of California.

2. At all times herein mentioned Plaintiffs, ISAAC LAMAR McCANN III, is, and at all relevant times mentioned herein was, an individual residing in the County

1 of Los Angeles, State of California.

2 3. Plaintiffs are informed and believe and based thereon allege that at all
3 times herein mentioned, Defendant, LAKE TERRACE CONDOMINIUM
4 ASSOCIATION, is, and at all relevant times mentioned herein was, a corporation with
5 its principal place of business in the County of Los Angeles, State of California.

6 4. Plaintiffs are informed and believe and based thereon allege that at all
7 times herein mentioned, Defendant, HOAG PROPERTY MANAGEMENT, INC., is,
8 and at all relevant times mentioned herein was, a corporation with its principal place of
9 business in the County of Los Angeles, State of California.

10 5. Plaintiffs are informed and believe and based thereon allege that the
11 above-entitled Court is the proper Court for this action because the injury to the
12 Plaintiffs occurred within the jurisdiction of said Court.

13 6. The true names and capacities of Defendants referred to herein as Does 1
14 to 100, Inclusive, and each of them, are unknown to Plaintiffs at this time and Plaintiffs
15 is informed and believes that they are in some way responsible for the damages
16 incurred. Plaintiffs will amend this Complaint to allege the true names and capacities
17 when ascertained.

18 7. Plaintiffs are informed and believe and based thereon allege that at all
19 material times each of the Defendants were the agents, ostensible agents, managing
20 agents, principals, officers, servants, directors, managers, employees, alter egos,
21 partners, trustees, co-trustees, co-venturers and/or joint venturers of the co-defendants,
22 and in doing the things herein alleged were acting in an agency, managerial or
23 employment capacity within the course and scope of their authority, whose acts and
24 conduct herein alleged were with the permission and consent of the co-defendants.
25 Each of the Defendants actions and conduct were known to, authorized and ratified by
26 the co-defendants. Plaintiffs are informed and believe and based thereon allege that all
27 of the conduct by the individual Defendants, which was outside the scope of their
28 authority, was known to, authorized and ratified by the co-defendants.

1 slippery, wet and/or slick substance and/or surface, causing Plaintiff to suffer severe
2 injuries and damages.

3 11. Plaintiffs are informed and believe and based thereon allege that as a direct
4 and legal (proximate) cause of said Defendants', and each of their, negligent acts and/or
5 omissions, as alleged herein above, Plaintiff, SHERELLE DERIRRA McCANN, suffered
6 severe and permanent physical and bodily injuries, received medical treatment for her
7 injuries and damages, and was treated for those injuries and damages by various health
8 care providers, incurred medical, hospital, other related special economic damages, as
9 well as past, present and future general damages for her pain, suffering, distress and
10 anguish. Further, Plaintiff, SHERELLE DERIRRA McCANN, and Plaintiff, ISAAC
11 LAMAR McCANN III, are, and at all relevant times mentioned herein were, husband and
12 wife; and that as a direct and legal (proximate) cause of said Defendants', and each of
13 their, negligent acts and/or omissions, as alleged herein above, and due to the severe and
14 permanent physical and bodily injuries suffered by Plaintiff, SHERELLE DERIRRA
15 McCANN, Plaintiff, ISAAC LAMAR McCANN III, suffered a loss of consortium,
16 which includes, but is not limited to, the loss of love, companionship, comfort, care,
17 assistance, protection, affection, society, and/or moral support of/from Plaintiff,
18 SHERELLE DERIRRA McCANN.

19 20 FIRST CAUSE OF ACTION

21 General Negligence

22 (As against All Named and Doe Defendants, and each of them)

23 12. Plaintiffs re-allege and incorporate by this reference each and every
24 allegation in the foregoing paragraphs as though fully set forth herein.

25 13. Plaintiffs are informed and believe and based thereon allege that on or
26 about November 01, 2016, Plaintiff, SHERELLE DERIRRA McCANN, was outside
27 walking lawfully on the Subject Walkway that is in or on the common area of Subject
28 Premises located at 16211 Downey Avenue, Paramount, California 90723; that the

1 Subject Area and/or Subject Walkway is, and at all relevant times mentioned herein was,
 2 owned, managed, operated, controlled, inspected, maintained, cleaned, repaired, guarded,
 3 monitored, supervised, renovated and/or secured by Defendants, LAKE TERRACE
 4 CONDOMINIUM ASSOCIATION; HOAG PROPERTY MANAGEMENT, INC.; and
 5 Does 1 to 100, Inclusive, and each of them.

6 14. Plaintiffs are informed and believe and based thereon allege that on the
 7 Subject Date, Defendants, LAKE TERRACE CONDOMINIUM ASSOCIATION;
 8 HOAG PROPERTY MANAGEMENT, INC.; and Does 1 to 100, Inclusive, and each of
 9 them, negligently and carelessly owned, managed, operated, controlled, inspected,
 10 maintained, cleaned, repaired, guarded, monitored, supervised, renovated and/or secured
 11 the Subject Premises and/or Subject Walkway, in that said Defendants, and each of them,
 12 knew, or in the exercise of reasonable care should have known, that said Subject Area
 13 and/or Subject Walkway was at all times in a dangerous condition and constituted an
 14 unreasonable risk of harm to Plaintiffs of which Plaintiffs was unaware. Further, said
 15 Defendants, and each of them, negligently and carelessly failed to maintain or repair the
 16 premises, i.e. the Subject Area and/or Subject Walkway, in a safe condition or warn
 17 Plaintiffs of its unsafe condition, so that as Plaintiff, SHERELLE DERIRRA McCANN,
 18 was walking on the Subject Area, she slipped and fell on a slippery, wet and/or slick
 19 substance and/or surface, causing Plaintiff to suffer severe injuries and damages.

20 15. Further, Plaintiffs are informed and believe and based thereon allege that on
 21 or before November 01, 2016, Defendants, LAKE TERRACE CONDOMINIUM
 22 ASSOCIATION; HOAG PROPERTY MANAGEMENT, INC.; and Does 1 to 50,
 23 inclusive, and each of them, negligently hired, contracted, trained, supervised, retained,
 24 engaged, employed and/or managed Defendants, LAKE TERRACE CONDOMINIUM
 25 ASSOCIATION; HOAG PROPERTY MANAGEMENT, INC.; and Does 51 to 100,
 26 Inclusive, and each of them.

27 16. Moreover, Defendants, LAKE TERRACE CONDOMINIUM
 28 ASSOCIATION; HOAG PROPERTY MANAGEMENT, INC.; and Does 1 to 50,

1 inclusive, and each of them, knew, or in the exercise of reasonable diligence should have
 2 known, that Defendants, LAKE TERRACE CONDOMINIUM ASSOCIATION; HOAG
 3 PROPERTY MANAGEMENT, INC.; and Does 51 to 100, Inclusive, and each of them,
 4 herein were negligent, careless, and/or reckless operators, contractors, repairers,
 5 managers, supervisors, guarders, renovators, maintainers, securers, cleaners, inspectors,
 6 caregivers, and/or controllers of the Subject Premises and/or the Subject Walkway.

7 17. As a direct and legal (proximate) cause of said Defendants', and each of
 8 their, negligent acts and/or omissions, as alleged herein above, Plaintiff, SHERELLE
 9 DERIRRA McCANN, suffered severe and permanent physical and bodily injuries,
 10 received medical treatment for her injuries and damages, and was treated for those
 11 injuries and damages by various health care providers, incurred medical, hospital, other
 12 related special economic damages, as well as past, present and future general damages for
 13 her pain, suffering, distress and anguish.

14 15 **SECOND CAUSE OF ACTION**

16 **Premises Liability**

17 **(As against All Named and Doe Defendants, and each of them)**

18 18. Plaintiffs re-allege and incorporate by this reference each and every
 19 allegation in the foregoing paragraphs as though fully set forth herein.

20 19. Plaintiffs are informed and believe and based thereon allege that on or
 21 about November 01, 2016, Plaintiff, SHERELLE DERIRRA McCANN, was outside
 22 walking lawfully on the Subject Walkway that is in or on the common area of Subject
 23 Premises located at 16211 Downey Avenue, Paramount, California 90723; that the
 24 Subject Area and/or Subject Walkway is, and at all relevant times mentioned herein was,
 25 owned, managed, operated, controlled, inspected, maintained, cleaned, repaired, guarded,
 26 monitored, supervised, renovated and/or secured by Defendants, LAKE TERRACE
 27 CONDOMINIUM ASSOCIATION; HOAG PROPERTY MANAGEMENT, INC.; and
 28 Does 1 to 100, Inclusive, and each of them.

20. Plaintiffs are informed and believe and based thereon allege that on the Subject Date, Defendants, LAKE TERRACE CONDOMINIUM ASSOCIATION; HOAG PROPERTY MANAGEMENT, INC.; and Does 1 to 100, Inclusive, and each of them, negligently and carelessly owned, managed, operated, controlled, inspected, maintained, cleaned, repaired, guarded, monitored, supervised, renovated and/or secured the Subject Premises and/or Subject Walkway, in that said Defendants, and each of them, knew, or in the exercise of reasonable care should have known, that said Subject Area and/or Subject Walkway was at all times in a dangerous condition and constituted an unreasonable risk of harm to Plaintiffs of which Plaintiffs was unaware. Further, said Defendants, and each of them, negligently and carelessly failed to maintain or repair the premises, i.e. the Subject Area and/or Subject Walkway, in a safe condition or warn Plaintiffs of its unsafe condition, so that as Plaintiff, SHERELLE DERIRRA McCANN, was walking on the Subject Area, she slipped and fell on a slippery, wet and/or slick substance and/or surface, causing Plaintiff to suffer severe injuries and damages.

21. As a direct and legal (proximate) cause of said Defendants', and each of their, negligent acts and/or omissions, as alleged herein above, Plaintiff, SHERELLE DERIRRA McCANN, suffered severe and permanent physical and bodily injuries, received medical treatment for her injuries and damages, and was treated for those injuries and damages by various health care providers, incurred medical, hospital, other related special economic damages, as well as past, present and future general damages for her pain, suffering, distress and anguish.

THIRD CAUSE OF ACTION

General Negligence – (Loss of Consortium)

(As against All Named and Doe Defendants, and each of them)

22. Plaintiffs re-allege and incorporate by this reference each and every allegation in the foregoing paragraphs as though fully set forth herein.

//

23. Plaintiffs are informed and believe and based thereon allege that on or about November 01, 2016, Plaintiff, SHERELLE DERIRRA McCANN, was outside walking lawfully on the Subject Walkway that is in or on the common area of Subject Premises located at 16211 Downey Avenue, Paramount, California 90723; that the Subject Area and/or Subject Walkway is, and at all relevant times mentioned herein was, owned, managed, operated, controlled, inspected, maintained, cleaned, repaired, guarded, monitored, supervised, renovated and/or secured by Defendants, LAKE TERRACE CONDOMINIUM ASSOCIATION; HOAG PROPERTY MANAGEMENT, INC.; and Does 1 to 100, Inclusive, and each of them.

24. Plaintiffs are informed and believe and based thereon allege that on the Subject Date, Defendants, LAKE TERRACE CONDOMINIUM ASSOCIATION; HOAG PROPERTY MANAGEMENT, INC.; and Does 1 to 100, Inclusive, and each of them, negligently and carelessly owned, managed, operated, controlled, inspected, maintained, cleaned, repaired, guarded, monitored, supervised, renovated and/or secured the Subject Premises and/or Subject Walkway, in that said Defendants, and each of them, knew, or in the exercise of reasonable care should have known, that said Subject Area and/or Subject Walkway was at all times in a dangerous condition and constituted an unreasonable risk of harm to Plaintiffs of which Plaintiffs was unaware. Further, said Defendants, and each of them, negligently and carelessly failed to maintain or repair the premises, i.e. the Subject Area and/or Subject Walkway, in a safe condition or warn Plaintiffs of its unsafe condition, so that as Plaintiff, SHERELLE DERIRRA McCANN, was walking on the Subject Area, she slipped and fell on a slippery, wet and/or slick substance and/or surface, causing Plaintiff to suffer severe injuries and damages.

25. As a direct and legal (proximate) cause of said Defendants', and each of their, negligent acts and/or omissions, as alleged herein above, Plaintiff, SHERELLE DERIRRA McCANN, suffered severe and permanent physical and bodily injuries, received medical treatment for her injuries and damages, and was treated for those injuries and damages by various health care providers, incurred medical, hospital, other

1 related special economic damages, as well as past, present and future general damages for
 2 her pain, suffering, distress and anguish. Further, Plaintiff, SHERELLE DERIRRA
 3 McCANN, and Plaintiff, ISAAC LAMAR McCANN III, are, and at all relevant times
 4 mentioned herein were, husband and wife; and that as a direct and legal (proximate)
 5 cause of said Defendants', and each of their, negligent acts and/or omissions, as alleged
 6 herein above, and due to the severe and permanent physical and bodily injuries suffered
 7 by Plaintiff, SHERELLE DERIRRA McCANN, Plaintiff, ISAAC LAMAR McCANN
 8 III, suffered a loss of consortium, which includes, but is not limited to, the loss of love,
 9 companionship, comfort, care, assistance, protection, affection, society, and/or moral
 10 support of/from Plaintiff, SHERELLE DERIRRA McCANN.

11
 12 **WHEREFORE**, Plaintiffs, SHERELLE DERIRRA McCANN; ISAAC LAMAR
 13 McCANN III, prays for Judgment against the Defendants, LAKE TERRACE
 14 CONDOMINIUM ASSOCIATION; HOAG PROPERTY MANAGEMENT, INC.; and
 15 Does 1 to 100, Inclusive, and each of them, as follows:

- 16 1. For economic and special damages consisting of, but not limited to, past,
 17 present and future medical and hospital expenses, loss of earnings and other
 18 expenses, of the Plaintiffs herein;
- 19 2. For non-economic and general damages consisting of, but not limited to,
 20 damages to compensate the Plaintiffs herein for her past, present and future
 21 pain and suffering;
- 22 3. For prejudgment and post-judgment interest;
- 23 4. For costs of suit incurred herein; and

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1 5. For such other and further relief as the Court may deem proper,
2

3 Dated: October 22, 2018

COHEN & MARZBAN, Law Corporation



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5
6 MICHAEL M. MARZBAN, ESQ.
7 Attorney for Plaintiffs,
8 SHERELLE DERIRRA McCANN and
9 ISAAC LAMAR McCANN III
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